

State of California  
BOARD OF EQUALIZATION

**SALES AND USE TAX REGULATIONS**

**Regulation 1654. BARTER, EXCHANGE, "TRADE-INS" AND FOREIGN CURRENCY TRANSACTIONS.**

*Reference:* Sections 6006, 6010, 6011, 6012, Revenue and Taxation Code.  
Exchange in connection with repairs, see Regulation 1546.  
Occasion Sales — Sale of a Business, see Regulation 1595.  
Reimbursement for tax, effect of collecting, see Regulation 1700.  
Vehicle Engine Exchanges in lieu of repairs, see Regulation 1547.

**(a) BARTER AND EXCHANGE GENERALLY.** The terms "sale" and "purchase" as defined in sections 6011 and 6012 respectively, include exchange and barter, and gross receipts and sales price constituting the measure of tax include the amount allowed by a retailer to his customer for property or services of any kind. Thus, the operator of an "exchange" where customers pay for their purchases of tangible personal property entirely or in part by other property is a retailer and taxable upon his gross receipts, unless his sales are insufficient in number, scope and character to constitute an activity requiring the holding of a seller's permit.

**(b) MERCHANDISE TRADED IN.**

(1) **IN GENERAL.** When merchandise is "traded in" on the purchase price of other merchandise, the retailer accepting the trade-in must include in the measure of tax the amount agreed upon between seller and buyer as the allowance for the merchandise traded in. Should, however, the board find that the allowance stated in the agreement is less than the fair market value, it shall be presumed that the allowance actually agreed upon is such market value.

(2) **DISCOUNT AND TRADE-IN ALLOWANCE ON SAME TRANSACTION.** Although discounts allowed and taken by purchasers are not a part of taxable gross receipts, if there is a trade-in and also a discount, the contract between seller and buyer must make it clear that the parties contract for both a trade-in allowance and for a discount. Otherwise, the amount of the claimed discount will be considered to be an overallowance, and the total sales price will be subject to tax.

**(c) EXCHANGE OF COMMODITIES.**

(1) **IN GENERAL.** When commodities are exchanged on a weight or volume basis, each party to the exchange is a seller with respect to the property transferred and a purchaser with respect to the property received. Each sale is subject to sales tax unless it is otherwise exempt, such as a sale for resale or a sale in interstate commerce.

With respect to each retail sale, sales tax is measured by the fair retail market value of the property received in payment for the property sold. The measure of tax includes all charges made to the purchaser, such as storage and handling charges, not expressly excluded from tax by statute.

(2) **DETERMINING FAIR RETAIL MARKET VALUE.**

**(A) SIMULTANEOUS EXCHANGES.** When the properties are transferred simultaneously, the property received must be valued in money on the date and at the place the property is paid and delivered to the retailer. The date of the contract is immaterial. Actual cost of the property to the transferor or book value of the property for accounting purposes are irrelevant. The measure of tax for use tax purposes is the same as for sales tax purposes.

**(B) SUCCESSIVE EXCHANGES.** When properties are transferred successively, each sale occurs when each property is transferred.

Where the obligations of the parties are specified in the contract, the measure of tax for each sale is the fair retail market value of the property on the contract date. The fair retail market value to be used must be the fair retail market value at the place where the property received in payment is delivered to the retailer.

## Regulation 1654. (Continued)

Where the obligations of the parties are not specified in the contract but rather are contingent on future events, i.e., an output or requirements contract, the measure of tax for each sale is the fair retail market value of the property on the date of sale or on the date property received in payment for the sale is delivered to the retailer, whichever occurs first. The fair retail market value to be used must be the fair retail market value at the place where the property received in payment is delivered to the retailer.

### (3) EXAMPLES.

**(A)** On January 1, Company A and Company B enter into a contract whereby Company A agrees to deliver 1,000,000 barrels of fuel oil to Company B in Los Angeles on February 1 and Company B agrees to deliver 1,000,000 barrels of fuel oil to A in San Francisco on February 1.

This is a simultaneous exchange. Company A has made a retail sale of fuel oil to Company B on February 1. The measure of tax is the fair retail market value of the 1,000,000 barrels of fuel oil in San Francisco on February 1. The value must be the fair retail market value at the place where the property is paid and delivered to the retailer, i.e., San Francisco.

Company B has made a retail sale of fuel oil to Company A on February 1. The measure of tax is the fair retail market value of the 1,000,000 barrels in Los Angeles on February 1.

The measure of tax includes all charges made to the purchaser, such as storage and handling charges, not expressly excluded from tax by statute.

**(B)** On January 1, Company A and Company B enter into a contract whereby Company A is to deliver 1,000,000 barrels to Company B in Los Angeles on February 1 and Company B is to deliver 500,000 barrels in San Francisco on March 1 and 500,000 barrels in Houston, Texas on April 1.

This is a successive exchange pursuant to a contract where the obligations of the parties are specific. Company A has made a retail sale of fuel oil to Company B on February 1. The measure of tax is the fair retail market value of the 1,000,000 barrels of fuel oil on January 1 (the contract date). The fair retail market value to be used is the value of 500,000 barrels in Houston and 500,000 barrels in San Francisco on January 1.

Company B has made two sales, one on March 1 and the other on April 1. The sale on April 1 is an exempt sale in interstate commerce. The measure of tax on the March 1 sale is the fair retail market value of the 500,000 barrels of fuel oil in Los Angeles on January 1 (the contract date).

**(C)** On January 1, Company A and Company B enter into a contract whereby Company A agrees to deliver excess fuel oil to Company B, as such excesses may develop in the future, in exchange for the return of like quantities of fuel oil at times and places mutually to be agreed upon in the future. Company B delivers 600,000 barrels of fuel oil to Company A in Long Beach on February 1, 200,000 barrels in San Francisco on April 1, and 200,000 barrels in Los Angeles on July 1. Company A delivers 1,000,000 barrels to Company B in Los Angeles on March 1.

This is a successive exchange pursuant to an output or requirements contract. The measure of tax is the fair retail market value of the property at the date the property received in payment is delivered to the retailer or the date of sale, whichever occurs first. Company A received an advance payment from Company B of 600,000 barrels delivered in Long Beach on February 1. The payments made by Company B to Company A on April 1 and July 1 are deferred payments on Company A's sale of March 1. The measure of tax with respect to the sale by Company A is the fair retail market value on February 1 of the 600,000 barrels delivered to Company A in Long Beach on that date, plus the fair market retail value on March 1 (date of sale) of the 400,000 barrels to be delivered by Company B in the future at the place where the property is to be delivered.

Company B has made three retail sales; one on February 1, one on April 1, and one on July 1. The measure of tax for the February 1 sale is the fair retail market value on February 1 of the 600,000 barrels to be delivered by Company A in the future at the place where the property is to be delivered. This is a sale with deferred payment, and tax must be reported on an accrual basis. The measure of tax for the April 1 sale is the fair retail market value of 200,000 barrels in Los Angeles on March 1. The measure of tax for the July 1 sale is the fair retail market value of 200,000 barrels in Los Angeles on March 1. The sales on April 1 and July 1 were sales with advance payments and must be valued on the date the property received in payment was delivered to the retailer (March 1).

## Regulation 1654. (Continued)

**(d) FOREIGN CURRENCY TRANSACTIONS.** If a purchaser or seller enters into a contract where the consideration is set forth in terms of foreign currency, tax is measured in United States dollars based on the conversion rate of the foreign currency to United States dollars on the date of the contract.

*History:* Effective August 1, 1983.

Adopted as of January 1, 1945, as a restatement of previous rulings.

Adopted November 3, 1969, as a restatement of former Rulings 41 (Cal. Admin. Code 1971) and 65 (Cal. Admin. Code 2055), effective December 5, 1969.

Amended May 9, 1985, effective July 18, 1985. Amended title and added subdivisions (c) and (d).

*Regulations are issued by the State Board of Equalization to implement, interpret or make specific provisions of the California Sales and Use Tax Law and to aid in the administration and enforcement of that law. If you are in doubt about how the Sales and Use Tax Law applies to your specific activity or transaction, you should write the nearest State Board of Equalization office. Requests for advice regarding a specific activity or transaction should be in writing and should fully describe the facts and circumstances of the activity or transaction.*